

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

MICHAEL W. HARRIS, et al.,

Plaintiffs,

v.

PURDUE PHARMA, INC., et al.,

Defendants.

Civil Action No. C-1-01-428

Honorable Judge S. Arthur Spiegel
Magistrate Timothy S. Hogan

AFFIDAVIT OF JOHN L. EADIE

STATE OF NEW YORK)
) SS.
COUNTY OF RENSSELAER)

Personally appeared the undersigned **John L. Eadie**, who on oath deposes and says:

1. I am John L. Eadie. From 1985 to 1995, I was the Director, Division of Public Health Protection, New York State Department of Health. In that capacity, I directed the activities of the Bureau of Controlled Substances and its Prescription Monitoring Program for the state of New York. I was responsible for the expansion of the program, for collecting information on about one-half million prescriptions to more than three million annually; for the attendant policy, regulatory, legal, and legislative issues; and, for the evaluation of program effectiveness.

2. I co-founded the Alliance of States with Prescription Monitoring Programs in 1992, an organization of twenty-eight states, including those that have Prescription Monitoring Programs and others considering establishment of programs.

3. At the request of multiple states, I have provided advice, assistance and guidance to their efforts to develop and effectuate their Prescription Monitoring Programs.

4. I have been retained by Plaintiffs in this case to act as an expert in this case.

5. I have reviewed the status of state Prescription Monitoring Programs and have determined that, at present, there are twenty-one existing programs (currently operating or going into operation). This is five more than were in this status as of the end of 2002. In addition, there are two programs under development. The existing programs are in the states of California, Hawaii, Idaho, Illinois, Indiana, Kentucky, Maine (new), Massachusetts, Michigan, Nevada, New York, Oklahoma, Pennsylvania (new), Rhode Island, Tennessee (new), Texas, Utah, Virginia (new), Washington, West Virginia, and Wyoming (new). Programs are under development in the states of Florida and Ohio.

6. I have searched out information regarding state Prescription Monitoring Programs' distribution of patient profile information to practitioners (health care professionals who have authority to prescribe controlled substances like OxyContin, including physicians and dentists), and pharmacies, and to law enforcement agencies. Attached is the information provided to me by the states of Idaho, Kentucky and Nevada. For the court's convenience, I have attached a chart summarizing that information.

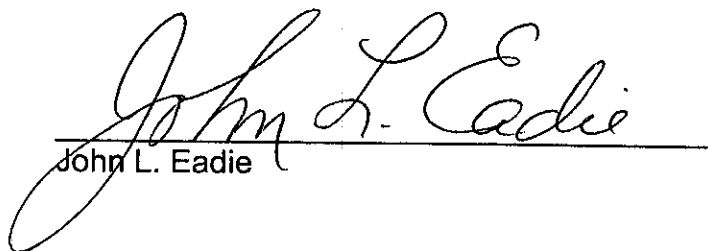
7. I have sought information from the State of Georgia regarding the status of the state's process in establishing a Prescription Monitoring Program. Richard Allen,

Deputy Director of the State of Georgia Drugs and Narcotics Agency, has provided that information to me in a letter. (Exhibit 6 to Plaintiffs' Reply brief).

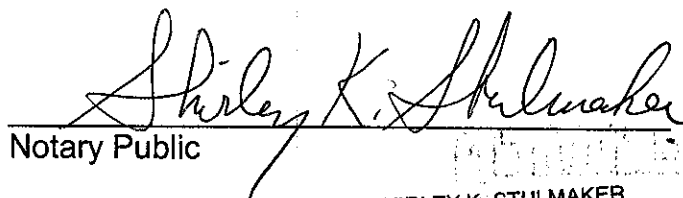
8. I have sought information from the state of Massachusetts regarding their Prescription Monitoring Program. I have learned that the state is interested in enhancing their program to distribute patient profiles to practitioners and pharmacies, as do states like Idaho, Kentucky and Nevada. However, due to fiscal constraints, the state is unable to do so.

9. I certify that the documents attached to this affidavit are true and accurate copies of correspondence and information provided to me by representatives of the states of Georgia, Idaho, Kentucky, and Nevada.

FURTHER AFFIANT SAYETH NAUGHT.


John L. Eadie

Sworn to before me and subscribed in my presence, this 10th day of September, 2003.


Notary Public

SHIRLEY K. STULMAKER
Notary Public, State of New York
Qualified in Albany County
Commission Expires 10/30/2006

**DISTRIBUTION OF PATIENT PROFILES
BY THREE PRESCRIPTION MONITORING
PROGRAMS DURING 2002**

State	To Practitioners and Pharmacies	To Law Enforcement	Total
Idaho	4,705	33	4,738
Kentucky	87,094	2,151	89,245
Nevada	11,587	12	11,599
Total	103,386	2,196	105,582
	97.9%	2.1%	100%

Table prepared on September 10, 2003 by John L. Eadie from information provided by the states of Idaho, Kentucky, and Nevada.



Idaho State Board of Pharmacy

3380 Americana Terrace, Suite 320

P.O. Box 83720

Boise, Idaho 83720-0067

Telephone (208) 334-2356

FAX (208) 334-3536

September 10, 2003

Dear Sirs;

The Idaho State Board of Pharmacy (IBOP) Drug-Tracking program serves as a means to monitor controlled substance prescriptions, schedules II-IV, filled in the state of Idaho or filled by out-of-state mail service pharmacies for patients residing in the state of Idaho. The prescription data is submitted by mail service pharmacies and Idaho community pharmacies on a monthly basis. Currently, the database receives an average of 120,000 records per month.

A report is generated on a monthly basis that indicates those individuals that have received a controlled substance prescription from 5 or more practitioners within a months time. A copy of this profile is sent to each practitioner indicated. In the year 2002, 624 individuals were identified and a profile sent. Year to Date for 2003 (January to August), there have been 350.

Information in the drug-tracking database may be released to practitioners, pharmacists, local law enforcement, medicaid or medicare agency, or licensing board. This information is obtained by submitting a profile request form from IBOP. The following shows the total number of these requests for the last 3 years and Year to Date for 2003 (January to August):

<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
499	1586	4114	3156

Of the total number of requests per year those made by local law enforcement are as follows:

<u>2001</u>	<u>2002</u>	<u>2003 (year to date)</u>
8	33	32

Currently, IBOP knows of no prosecution of an individual based on the information from the database.

Sincerely,

Richard K. Markuson, RPh
Executive Director

2002
Profiles to
Practitioners
& Pharmacies

4,114

< 33 > to law enforcement

+ 624

4,705

Executive Director: Richard K. Markuson, R.Ph.

Subj: **Kasper Stats**
Date: 9/10/2003 10:43:49 AM Eastern Daylight Time
From: Dave.Sallengs@mail.state.ky.us
To: JohnLEadie@aol.com

<<KASPER Statistical Data>>

KASPER data is from the Kentucky All Schedule Prescription Electronic Reporting database.

KASPER statistical data John Eadie.xls, contains no confidential information, and, therefore, is not subject to the standard "NOTICE OF CONFIDENTIALITY" at the end of this email.

Dave Sallengs, RPH
Branch Manager
Drug Enforcement and Professional Practices
Dave.Sallengs@mail.state.ky.us <<mailto:Dave.Sallengs@mail.state.ky.us>>

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Message-ID: <63AA762A65D0D4119FAA00508B952FEC0956D21D@agency24.state.ky.us>
From: Dave.Sallengs@mail.state.ky.us
To: johnleadie@aol.com
Subject: KASPER Statistical Data
Date: Fri, 5 Sep 2003 11:10:52 -0400
MIME-Version: 1.0
X-Mailer: Internet Mail Service (5.5.2656.59)
Content-Type: multipart/mixed;
boundary="-----_=_NextPart_002_01C377A9.E83F3260"

Please call me if you have any questions!

<<KASPER statistical data John Eadie.xls>>

Dave Sallengs, RPH
Branch Manager
Drug Enforcement and Professional Practices
Dave.Sallengs@mail.state.ky.us <mailto:Dave.Sallengs@mail.state.ky.us>

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KASPER Statistical Data 01/01/2002 Through 12/31/2002

Number of KASPER reports sent to practitioners	83,151
Number of KASPER reports sent to pharmacists	3,943
Number of patient profiles sent to practitioners and pharmacies because KASPER identified a possible problem	0 *
Number of KASPER reports sent to law enforcement	2,151
Number of criminal prosecutions of persons who obtain controlled substances in which KASPER data was utilized for the prosecution	**

* Our policy is to act only on complaints. We do not scrutinize reports unless a problem is reported from outside our office.

**

KASPER reports are not to be used as evidence. KASPER is a tool used by law enforcement to obtain evidence. Our office has no way to track the number of prosecutions resulting from law enforcement KASPER requests.

KASPER statistical data John Eadie.xls

Subj: (no subject)
Date: 9/9/2003 2:48:57 PM Eastern Daylight Time
From: kmacdonald@govmail.state.nv.us
To: johnleadie@aol.com

Nevada State Board of Pharmacy
555 Double Eagle Court - Suite 110 - Reno, NV 89521
(775) 850-1440 - 1-800 364-2081

Mr. John L. Eadie
78 Van Dyke Drive South
Rensselaer, NY 12144

Dear Mr. Eadie:

This letter confirms the provision of informational sheets to you by Nevada's Controlled Substance Abuse Prevention Task Force (the task force). While some of the documents, particularly graphs or charts, appear without titles attributing the data to this program, you may certainly do so at your discretion.

In conference with Joanee Quirk, task force administrator, we discussed the frequency that law enforcement agencies contact task force personnel to obtain controlled substance utilization data for investigational purposes. The number we concluded would be accurate would not exceed twelve (12) inquiries per year.

We purposefully excluded the Drug Enforcement Administration (DEA) resulting from the circumstance their major interest has been registration issues, utilization issues, and frankly, the fact that this office is unaware of any criminal interventions resulting in legal actions they have conducted in a good number of years. Regardless of a precise characterization of law enforcement contacts with the task force, it could be considered extremely minimal or virtually non-existent compared to other activities the office conducts in the dissemination of information relevant to controlled substance medication utilization.

If there is further information you need, please contact me.

Sincerely,

Keith W. Macdonald, Executive Secretary
Nevada State Board of Pharmacy

CONTROLLED SUBSTANCE TASK FORCE
Schedule of Data collected and Statistical Analysis
For the year ending December 31, 2002

PHARMACY REPORTING DATA

Pharmacies reporting data

	<u>1997</u>	<u>1998</u>	<u>1999</u>	<u>2000</u>	<u>2001</u>	<u>2002</u>
Pharmacies reporting data	325	347	350	364	387	406
Prescriptions collected						
Schedule 2	212,919	245,727	289,542	339,244	399,642	468,536
Schedule 3	762,762	866,778	959,407	1,033,729	1,124,721	1,188,585
Schedule 4	786,115	723,730	779,955	830,777	913,129	1,058,087
Soma/Ultram						11,711
unknown schedule	28,324	15,929	7,835	12,051	15,131	6,019
Total Prescriptions collected	1,790,120	1,852,164	2,036,739	2,215,801	2,452,623	2,732,938

NEVADA POPULATION

Population of Nevada (July 1)

1,779,850 1,855,790 1,967,650 2,023,083 2,132,498 2,732,939

PATIENT PROFILE ACTIVITY

Patients who have exceeded the drug threshold
 Patients who have been profiled (unsolicited)
 Average # of practitioners seen by each profiled patient
 Average # of pharmacies seen by each profiled patient
 Average # of rxs received by each profiled patient
 Average # of doses received by each profiled patient

4,179 5,481 7,564 7,851 8,395 8,253
 182 162 475 481 559 652
 22 18 (sites) 13 12 12 14
 16 15 13 12 13 12
 159 73 58 56 54 46
 9,351 4,714 3,590 3,314 3,081 4,056

PRACTITIONERS AND PHARMACIES

DEA numbers received
 Practitioners who have received profiles (unsolicited)
 Pharmacies that have received profiles (unsolicited)
 Profiles requested via fax (solicited)

18,822 23,059 25,524 29,563 29,354 30,000
 1,377 1,321 2,150 1,942 2,289 2,595
 223 258 312 329 353 406
 480 1,641 3,247 4,530 6,896 10,935

11,587